

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ASSOCIATION OF NEW JERSEY
RIFLE & PISTOL CLUBS, INC.,

BLAKE ELLMAN, *and*

ALEXANDER DEMBOWSKI,
Plaintiffs,

v.

GURBIR GREWAL, in his official
capacity as Attorney General of New
Jersey,

PATRICK J. CALLAHAN, in his
official capacity as Superintendent of
the New Jersey Division of State
Police,

THOMAS WILLIVER, in his official
capacity as Chief of Police of the
Chester Police Department, *and*

JAMES B. O'CONNOR, in his official
capacity as Chief of Police of the
Lyndhurst Police Department,

Defendants.

HON. PETER G. SHERIDAN,
U.S.D.J.

HON. LOIS H. GOODMAN,
U.S.M.J.

CIVIL ACTION NO. 18-cv-10507

CIVIL ACTION

(ELECTRONICALLY FILED)

**DECLARATION OF JAMES CURCURUTO IN SUPPORT OF
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

1. I, James Curcuruto, am not a party in the above-titled action. I am over the age of 18.

2. Counsel for plaintiffs in *Association of New Jersey Rifle & Pistol Clubs, Inc. v. Grewal* (D.N.J. Case No. 18-cv-10507), have asked me to offer an opinion regarding this case. This report sets forth my qualifications, opinions, and scholarly foundation for those opinions.

3. I am currently the Director of Research and Market Development at the National Shooting Sports Foundation, Inc. (NSSF). I have held this position since October 2017. Prior to this position I was Director of Industry Research and Analysis for NSSF and held that position since November 2009. The NSSF, formed in 1961, is the trade association for the firearms, ammunition, hunting, and recreational shooting sports industry. Its mission is to promote, protect, and preserve hunting and the shooting sports. The NSSF has a membership of approximately 10,000 manufacturers, distributors, firearms retailers, shooting ranges, sportsmen's organizations, and publishers.

4. I received my associate's degree in business administration from the State University of New York at Cobleskill in 1991 and my bachelor's degree in business management from the University of North Carolina at Wilmington in 1993. My nearly 25-year business work history has focused primarily on sales, marketing, advertising, research, analysis, and business development.

5. In my position as Director of Research and Market Development, I am responsible for most of the research activities at NSSF, and I direct the activities of

an internal research manager as well as several outside companies retained to conduct research and gather market and consumer information useful to NSSF members.

6. Under my direction, dozens of informational reports and studies focusing on industry topics and trends, including firearms, ammunition, target shooting, and hunting, have been released to the NSSF member base. And many NSSF reports are shared outside the organization as well. Data from these releases has been referenced many times in endemic, non-endemic, online and print newspaper and magazine articles, used in corporate 10K reports, and mentioned in other media.

7. I have authored and provided information for several articles published in trade magazines. I have also been deposed as an expert witness regarding the commonality of magazines capable of holding more than 10 rounds of ammunition.

8. In the past ten years, I have written or contributed to the following published articles:

Firearms Accidents Drop	SHOT Business	June/July 2011
New Study Can Aid Planning	The Range Report	Winter 2011
NSSF Releases Report on Diversity	SHOT Business	April/May 2013
Participation Trends	SHOT Business	Aug/Sept 2013
Industry Research from NSSF	SHOT Business	December 2013
Many Uses, Many Sales	AR Guns and Hunting	May 2014
The Big Bucks of Target Shooting	SHOT Business	June/July 2014
Opening the Clubhouse	SHOT Business	December 2014
Improve Your Knowledge	SHOT Business	January 2015
Executive Privilege	SHOT Business	December 2016
Target Audience	SHOT Business	Oct/Nov 2017

9. In the past five years, I have been deposed and/or testified at trial in the following matters:

- Deposed for *Wilson, et al. v. Cook County, Illinois*, No. 07 CH 4848, In the Circuit of Cook County Illinois County Department, Chancery Division. November 7, 2013 Waterbury, CT 06702
- Deposed for *Kolbe v. O'Malley*, U.S. District Court for the District of Maryland, January 24, 2014
- Deposed for *Friedman v City of Highland Park* May 27, 2014 Windsor Locks, CT 06096
- Deposed for *Worman v Healey* November 7, 2017 Washington, DC 20036
- Deposed for *Duncan v Becerra* January 11, 2018 White Plains, NY 10601

10. I am not receiving compensation from any parties to litigation or their counsel in exchange for my opinions.

11. Plaintiffs' counsel has asked me to provide opinion on the prevalence of firearm magazines capable of holding more than ten rounds of ammunition in American society, including rates of ownership of such magazines by law-abiding citizens.

12. There are at least one hundred million magazines of a capacity of more than ten rounds in possession of American citizens, commonly used for various lawful purposes including, but not limited to, recreational and competitive target shooting, home defense, collecting and hunting.

13. Many NSSF members manufacture, distribute, and/or sell firearms and shooting and hunting-related goods and services, and as is usual and customary for trade associations, the NSSF collects and disseminates industry-specific, non-sensitive data reflecting consumer preferences, market trends, and other information for use in their business decisions. Among the shooting and hunting-related goods and services manufactured, distributed, and sold by NSSF members are ammunition magazines.¹ Research conducted by the NSSF and under my direction demonstrates that detachable ammunition magazines are very popular and are commonly owned by millions of persons in the United States for a variety of lawful purposes, including, but not limited to, recreational and competitive target shooting, home defense, collecting and hunting.

14. In addition to ammunition magazines accompanying firearms that utilize them at the time of sale, such magazines are also widely available for sale as a stand-alone item to individuals who need a replacement, different-capacity, and/or additional magazines.

¹ A “magazine” is a receptacle for a firearm that holds a plurality of cartridges or shells under spring pressure preparatory for feeding into the chamber. *Glossary Results*, SPORTING ARMS & AMMUNITION MANUFACTURERS’ INSTITUTE, INC., available at <https://goo.gl/MKwGxA>. While magazines take many forms—box, drum, rotary, tubular, etc. and may be fixed or removable—from the materials I considered and firearms industry professionals I consulted, the figures discussed in this declaration generally (if not exclusively) concern detachable, box magazines.

15. I am not aware of any singular public source providing reliable figures identifying exactly how many ammunition magazines are manufactured or imported for sale within the United States each year. There are, however, data available to me from which estimations of the number of magazines that have been sold to the general population, as well as how many of those have a capacity for ammunition exceeding ten rounds, can be calculated within a reasonable degree of certainty.

16. Using such data, I have, in the normal scope of my duties on behalf of the NSSF, calculated estimations of the total number of magazines possessed by consumers in the United States, as well as how many of those have a standard capacity for ammunition exceeding ten rounds. These estimations are published in the NSSF® Magazine Chart attached to this report.

17. The NSSF® Magazine Chart estimates that 260 million pistol and rifle magazines were in the possession of United States consumers between 1990 and 2016. The data supporting the Chart further shows magazines capable of holding more than 10 rounds of ammunition accounted for approximately 133 million—or approximately half—of all magazines owned.

18. Sources used to compile the NSSF® Magazine Chart include the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms Manufacturers and Exports Reports (AFMER), U.S. International Trade Commission (ITC) data, as well as opinions of firearms industry professionals. To

prepare the NSSF® Magazine Chart, only the number of pistols and rifles were used, while revolver and shotgun data was excluded as revolvers and the clear majority of shotguns do not utilize magazines.

19. The ATF AFMER data provide historical figures for pistols by caliber (i.e., the specific ammunition cartridge for which a firearm is chambered) and rifles produced in the United States for consumer purchase. The ITC data provides historical figures for pistol and rifles imported to and exported from the United States for consumer purchase. The total number of firearms available for consumer purchase from 1990 through 2016 was calculated by adding the total U.S. production of firearms with total firearms imported and then subtracting total firearms exported.

20. The ATF AFMER and ITC data provided estimates of approximately 75.8 million pistols and 60.7 million rifles capable of holding a magazine were available to United States consumers between 1990 and 2016. Firearms industry professionals with knowledge of the pistol and rifle magazine market then allocated magazines to the totals to complete the data provided in the NSSF® Magazine Chart.

21. It can be assumed that many more such magazines were manufactured in the United States or imported to the United States for sale in the commercial marketplace both prior to 1990 as well as after 2016.

22. While the figure of 133 million magazines with a capacity greater than 10 rounds in circulation is an estimation based on extrapolation from indirect sources

and cannot be confirmed as unequivocally accurate, it is safe to say that whatever the actual number of such magazines in United States consumers' hands is, it is in the tens-of-millions, even under the most conservative estimates.

23. References:

- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms Manufacturers and Exports Reports (AFMER).
- U.S. International Trade Commission (ITC) online query system.

24. Attached and made a part of this report is a copy of the NSSF[®] Magazine Chart (Exhibit A).

25. Based on the findings listed above, it is my opinion that magazines that are capable of holding more than ten rounds of ammunition are commonly used by millions of law-abiding Americans for a variety of lawful purposes.

I declare under penalty of perjury that the foregoing is true and correct.

Executed within the United States.

A handwritten signature in blue ink, appearing to read "James Curcuruto", written over a horizontal line.

James Curcuruto

A handwritten date "6/20/18" in blue ink, written over a horizontal line.

Date